

REMARKS

Upon entry of this amendment, independent claim 1 with dependent claims 2-11 remain in the application.

Claim 1 has been amended to recite that the circumferential edge portion of the lid turns upwardly, in addition to downwardly along its entire periphery. Such limitation was previously recited in claim 5, which has been amended to delete the limitation. Accordingly, the amendments do not introduce any new matter.

The Office Action contends that “[a] new title is required that is clearly indicative of the invention to which the claims are directed. The title should include at least one tehcinca [sic], or inventive, feature of the claimaed insant [sic] invention.” 37 C.F.R. § 1.72 requires that the title “must be as short and specific as possible”. There is no requirement that the title include any inventive feature of the invention. Each claim of the application is directed to a “container”. Accordingly, the title “CONTAINER” is indicative of the invention, and is as short and specific as possible.

The drawings were objected to, the Office Action contending that such drawings did not show “the lid edge portion being spaced from the body wall outer surface”. Similarly, claims 1-11 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite with respect to a number of features of the lid. The Applicant respectfully submits that all of the features questioned in the Office Action are shown, and easily discerned, in the drawings of the subject application.

The features of lid (lid edge portion forming a gap with the body wall outer surface; a circumferential edge portion that turns downwardly along its entire periphery to have a second cross-section complementary in shape to and for enclosing the first cross-section; the lid edge portion turns downwardly along its entire periphery before turning upwardly to adjoin the annular rib, thereby forming an annular groove immediately within the annular rib) are easily seen in Figure 9. An enlarged and marked-up copy of Figure 9 provided in Appendix A is provided to aid the Examiner in identifying the lid features. Claim 1 has been amended to recite both the upward and downward portions of the edge that define the second cross-section.

With regard to the annular ribs 222R, the subject specification teaches that “[t]he peripheral portion 220 has a circumferential edge portion 222 that turns upwardly and then downwardly along its entire length to form a hollow annular rib 222R”. Page 4, lines 19-21.

Contrary to the allegation of the Office Action, the lead line from reference numeral 222R extends to the combination of the upwardly and downwardly extending rib, as taught in the specification. Further, as shown in Figure 9, the upwardly portion of rib 222R does engage the inner surface of the body wall and the cross-section of the rib 222R is complementary to the cross-section of edge portion 122..

Accordingly, the drawings and the specification teach all of the elements recited in the claims.

Claims 1-8 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. 3,688,942 (Mitchell et al.). Claims 9-11 were rejected under 35 U.S.C. § 103(a) as being obvious over the Mitchell reference.

The Applicant respectfully submits that the latch 61 of the Mitchell reference does not bear “resiliently at an acute angle against an outer surface of the body wall to thereby maintain the sealing engagement” as recited in claim 1. Mitchell teaches that “the nose 65 of the cam follower means 63 first contacts the cam means 30 and rides therealong to progressively draw the closure 12 downwardly during which the seal 57 is progressively compressed until such time as the projection 16 is fully seated within the channel 55”. Col. 4, lines 41-46. As shown in Figure 2 of Mitchell, the end 65 of the nose 64 of the cam follower 63 does not contact the wall of the container body 11. Rather, the end 65 of the nose 64 of the cam follower 63 is disposed in channel 55 when the closure 12 is mounted to the container body 11. While the bight wall 68 of the hand-grip portion 67 of the latch 61 “is contiguous [to] the annular wall 21 in the latched position” (Col 4, line 60), bight wall 68 does not bear resiliently at an acute angle against the outer surface of annular wall 21, and more importantly, does not maintain the sealing engagement between the closure 12 and the container body 11.

The Applicant also submits that Mitchell does not disclose “a lid for closing the opening of the body and having a circumferential edge portion that [has] ... a second cross-section complementary in shape to and for enclosing the first cross-section for surface sealing engagement therewith”. While Figure 2 shows that the cross-sections of at portions of the bight wall 52 and bead 16 are complimentary to some degree, Mitchell teaches that a gasket or seal 57 is required to seal the closure 12 to the container body 11. Col. 4, lines 19-21. If such an independent seal 57 is required, it cannot be argued that the cross-sections of bight wall 52 and bead 16 inherently engage in a surface sealing arrangement. “The fact that a certain result or characteristic may occur or be present in

the prior art is not sufficient to establish the inherency of that result or characteristic." MPEP § 2112. "The mere fact that a certain thing may result from a given set of circumstances is not sufficient [to establish inherency]." In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). To rely on the theory of inherency in rejecting a claim under 35 U.S.C. 102 or 103, ". . . the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied art." (emphasis in original). Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)

"It is axiomatic that for prior art to anticipate under § 102 it has to meet every element of the claimed invention." Transco Products Inc. v. Performance Contracting Inc., 23 USPQ2d 1691, 1694 (N.D. Ill. 1992), see also Hybritech Inc. v. Monoclonal Antibodies, Inc., 213 USPQ 81 (Fed. Cir. 1986) and Stoller v. Ford Motor Co., 18 USPQ2d 1545, 1547 (Fed. Cir. 1991). Since the Mitchell reference does not disclose each and every element of claim 1, the rejections under 35 U.S.C. § 102 must be withdrawn.

The various dependent claims add additional features to the independent claims, and are therefore believed to be allowable. Also, the dependent claims are believed patentably distinct on their own merits as being directed to combinations not suggested by the references.

In view of the above-directed amendments and the proceeding remarks, prompt and favorable reconsideration is respectfully requested.

Respectfully submitted,
Chi Hung Law

By 
Clifford P. Kelly
Registration No. 35,213
Alix, Yale & Ristas, LLP
Attorney for Applicant

750 Main Street
Hartford, CT 06103-2721
(860) 527-9211
December 2, 2005
Our Ref: KPC/385/US
CPK/io